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January 28, 2005

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554


**Re: Developing a Unified Intercarrier Compensation Regime,
CC Docket No. 01-92**

Dear Ms. Dortch:

On behalf of Western Wireless Corp. ("Western Wireless"), Mark Rubin of Western Wireless and I made separate *ex parte* presentations to: (1) Barry Ohlson and Scott Bergmann, legal advisors to Commissioner Adelstein, on Jan. 26, 2005; (2) Jennifer Manner, legal advisor to Commissioner Abernathy, yesterday; and (3) Dan Gonzalez and Sam Feder, legal advisors to Commissioner Martin, today. The presentations covered the points on the attached handout.

If you have any questions, please contact me.

Respectfully submitted,



David L. Sieradzki
Counsel for Western Wireless Corp.

Enclosure

cc: FCC personnel listed above



Western Wireless Intercarrier Compensation Reform Plan

January 2005



CTIA Principles for Inter-carrier Compensation Reform

- Focus on benefits to consumers, not “revenue neutrality” guarantees for ILECs
- Encourage economic efficiency and promote competition
- Competitive and technological neutrality
- Carrier self-reliance: recover network costs from own end-users
- Targeted universal service support: no higher than necessary to ensure affordable rates
- Administrative feasibility and simplicity

Principle #1: Focus on Consumer Benefits, Not “Revenue Neutrality” for ILECs

- **Portability**: Non-portable funds would distort intermodal competition and deny rural consumers the full benefits of competitive choice.
- **Protect Consumers** by promoting full-fledged competition.
 - No revenue guarantees; ultimately, no revenue restrictions (retail rate deregulation) for carriers facing competition.
 - Truth in billing (no mischaracterizing SLCs as regulatory obligations).



Principle #2: Encourage Economic Efficiency and Promote Competition

- Do not perpetuate regulatory regimes, such as rate-of-return regulation, that give ILECs incentives to maximize support by incurring inefficient costs.
 - Instead, create a deregulated environment in which wireless and wireline carriers can compete on an even playing field.
- Eliminate uneconomic arbitrage.
 - Overhaul the current divergent array of rules that unfairly discriminate among various classes of service providers.
 - Instead, establish unified rules regarding intercarrier compensation and universal service.

Principle #3: Competitive and Technological Neutrality

- Do not confer competitive advantages on one category of carrier or service provider over another.
 - Eliminate existing rules that discriminate against wireless by denying them compensation that is available to ILECs.
 - Do not sanction ILEC tariffs that unlawfully impose one-sided charges on wireless carriers.
 - Intercarrier compensation rate levels and rate structures should be unified.
 - Compensation should not differ depending on jurisdiction (interstate vs. intrastate), distance (local vs. long-distance, intra- vs. inter-MTA), or status of provider (non-rural ILEC, rural ILEC, CLEC, CMRS, VOIP).
 - Universal service high-cost support mechanism should also be “unified.”


Principle #4: Carrier Self-Reliance

- Each carrier should recover network costs from its own end-users.
 - Move to a unified “**bill-and-keep**” system for all forms of traffic that is “transported and terminated.”
- In a competitive market, each carrier should have flexibility in how to recover costs.
 - Move toward granting retail pricing flexibility to ILECs that face competition,
 - provided that consumer safeguards are in place.
- Will facilitate full intermodal competition.



Principle #5: Targeted Universal Service Support

- USF should be no higher than necessary to ensure affordable end-user rates.
- Create a **unified** high-cost support mechanism that calculates support based on **forward-looking costs**.
 - USF should not be used to ensure “revenue neutrality” or provide guaranteed returns for ILECs.
 - Instead, target support to consumers in high-cost areas.
- All explicit USF must continue to be fully portable among all ETCs.
- Universal service should be funded in a competitively neutral manner with all communications providers contributing to support mechanisms.



Principle #6: Administrative Feasibility and Simplicity

- Rely primarily on carrier negotiation of interconnection agreements, rather than excessively detailed regulatory prescription.
- Pursuant to Sections 251 & 252, recognize state PUCs' critical role in arbitration process.



The Western Wireless Plan

- Legal & Procedural Framework
- Short-Run Clarifications
- Default Network Architecture Rules
- Intercarrier Compensation Rate Level Shifts
- ILEC Pricing Flexibility
- Universal Service Reform



The WW Plan:

Legal & Procedural Framework

- All intercarrier compensation is potentially subject to interconnection agreements among carriers, pursuant to Section 251(b)(5).
 - Pricing rules in Section 252(d)(2) permit FCC and/or state commissions to require “bill-and-keep.”
 - Section 201 authorizes the FCC to prescribe rules to govern state PUCs in arbitrating such agreements. Section 332 provides an additional source of authority regarding interconnection with wireless carriers.
 - Carriers may negotiate alternative arrangements, subject to state PUC approval. All agreements must be filed and offered for others to “opt in” pursuant to Section 252(i).
- The FCC should adopt standards regarding network architecture default rules and interconnection rate levels.



The WW Plan:

Short-Run Clarifications

- Reaffirm existing interconnection rules on exchange of traffic with wireless carriers:
 - Transport and termination rates (not access charges) apply to all intra-MTA traffic originating from and terminating to wireless carriers, notwithstanding any ILEC tariffs to the contrary.
 - Wireless carriers are entitled to “local” interconnection arrangements based on the rating points for their customers, regardless of how traffic is actually routed.



The WW Plan:

Default Network Architecture Rules

- In general, each carrier will bear financial responsibility for delivering its originating traffic to another carrier's "edge" in a LATA.
 - In the alternative, at the option of the originating carrier, carriers may deliver traffic to a mutual meet-point at an ILEC access tandem.
- For interconnection between hierarchical ILECs and other carriers, the non-ILEC carrier will have the option of:
 - (1) the default "edge" rule, or
 - (2) have the ILEC carry traffic both ways between networks and recover 50% of current switched dedicated transport rate from other carrier.
- Hierarchical ILECs must offer "transit" service, with rates capped based on inflation.



The WW Plan: Intercarrier Compensation Rate Level Shifts

- Over a 4 year period, the maximum level of per-minute intercarrier compensation rates in interconnection agreements declines to zero (bill-and-keep) in roughly equal steps.
 - For the smallest rural ILECs (those with fewer than 30,000 lines in a state and fewer than 100,000 nationwide), these reductions would proceed on a slower time frame (e.g., six years instead of four).
- Reductions would be targeted as follows:
 - Beginning in Year 1, no non-access charge rate may exceed **[\$0.0015]** per minute.
 - Subject to the preceding bullet point, rate reductions would be targeted so that the highest per-minute rates (typically intrastate access) come down first until they are at parity with interstate access rate levels.



The WW Plan:

ILEC Retail Pricing Flexibility

- ILECs would be allowed to increase their subscriber line charges (“SLCs”) over the four-year transition period, as proposed by the ICF.
 - However, no difference between the SLC caps for rural and non-rural ILECs.
- ILECs must identify the SLC as part of the basic price of service, rather than as a regulatorily mandated “add-on” charge.
 - Consistent with the CTIA Consumer Code, on billing statements and marketing materials, carriers must separately identify carrier charges (amounts retained by carrier for services and features) from taxes, fees and other charges collected by the carrier and remitted to federal state or local governments.
- SLCs will be completely deregulated at the end of the four-year transition period for any ILEC that can prove to the FCC that it is subject to competition.
 - *I.e.*, at least one facilities-based carrier is available to [XX]% of customers in the area, and at least [YY]% of customers have chosen to take service from such competing facilities-based carrier(s).
 - If the ILEC is receiving high-cost funds, then the competing facilities-based carrier must also have ETC status and be receiving high-cost funds.



The WW Plan:

Universal Service Reform (1)

- Replace all existing USF mechanisms with a unified high-cost universal service mechanism based on forward-looking costs of least-cost technology.
 - Would be fully portable to all designated ETCs operating in a geographic area.
 - Additional portable funds could be disbursed in states that have statewide average forward-looking costs significantly greater than the national average (like today's High Cost Model-based support fund).
- At the end of a four-year transition period (six years for areas served by small rural ILECs), the overall size of the fund would be “right-sized.”
 - Could target fund to be no greater than the size of today's high-cost support funds, and possibly smaller, as long as support is “sufficient.”
 - Individual carriers may receive more or less than in the past.



The WW Plan:

Universal Service Reform (2)

- To ease the transition for rural ILECs and other ETCs in their service areas, the existing USF funds would be transitioned out, and the new funds would be transitioned in, in graduated “steps” over a four-year transition period.
 - This transition process would be extended to six years for the smallest rural ILECs (those with fewer than 30,000 lines in a state and fewer than 100,000 nationwide) and other ETCs in their service areas.
 - In addition, in extraordinary circumstances, if an incumbent or competitive ETC can prove to the FCC that it faces extreme hardships and additional support is needed to avoid increasing end-user rates to “unaffordable” levels, additional “safety net” support should be available to all ETCs in the specified geographic area for a limited period of time.



Differences Between WW Plan and Other Plans (1)

- Eliminate Distortions Faster / Reach Bill-and-Keep Sooner
 - The ICF plan takes 8 years to reach bill-and-keep; and the EPG and ARIC plans would go the wrong direction by very substantially *increasing* the intercarrier compensation paid by CMRS and other competitive carriers.
 - By contrast, the WW plan would reach bill-and-keep after a four-year transition period.
- Promote Broadband and VOIP Deployment More Effectively
 - By eliminating the distortions imposed by the existing hodge-podge of different intercarrier compensation systems more rapidly than other plans, the WW plan would more effectively stimulate deployment of new technologies, including broadband and VOIP, by all classes of carriers.

Differences Between WW Plan and Other Plans (2)

- Competitively Neutral / No Revenue Guarantees.
 - The ICF, EPG, and ARIC plans preserve rate-of-return based revenue guarantees for rural ILECs and attempt to achieve “revenue neutrality” for all ILECs (with new USF dollars targeted to replace lost access revenues).
 - The ICF plan fences off substantial amounts of money from competition, by establishing a substantial new fund for rural ILECs that is “non-portable” to wireless ETCs, and by preserving residual access revenues for rural ILECs that are unavailable to wireless competitors operating in the same areas.
 - The WW plan is pro-competition rather than favoring a particular industry segment – it places all carriers on an equal competitive footing by abandoning all efforts to provide revenue guarantees or revenue neutrality.

Differences Between WW Plan and Other Plans (3)

- Pro-Competition and Pro-Consumer
 - The WW plan is pro-competition rather than favoring a particular industry segment, and therefore will more effectively advance the interests of both rural and urban consumers.
 - Pro-Rural Consumer: The WW plan targets USF dollars to consumers in the most rural, high-cost areas.
 - By contrast, the ICF, EPG, and ARIC plans continue to target USF dollars to the least efficient ILECs, regardless of how costly their areas really are to serve and regardless of the extent to which consumers in those areas need to be subsidized.



Differences Between WW Plan and Other Plans (4)

- Greater State PUC Role
 - The ICF plan largely displaces state PUCs by providing extraordinarily detailed prescriptions regarding rate structures and rate levels.
 - The WW plan preserves more flexibility for carrier-to-carrier negotiations, and hews more closely to the division of authority between the FCC and states set forth in Sections 251 and 252 of the Act.



Differences Between WW Plan and Other Plans (5)

- More Deregulation / More Consumer Protection.
 - Unlike any of the other plans, the WW plan provides a path toward full retail deregulation of the ILECs (elimination of SLC caps), thus setting the stage for full and unfettered intermodal, facilities-based competition.
 - At the same time, the WW plan also is unique in ending the ILECs' ability to take advantage of consumers by mischaracterizing SLCs as a regulatory mandate.

Rural phone service fund under siege

Share for wireless carriers protested

By Paul Davidson
USA TODAY

Paul Reynolds was in cellphone Siberia. His cellphone worked fine in Sioux Falls, S.D., where he worked. But it was useless in his tiny hometown of Parker, 25 miles southwest.

Neither of the state's two main carriers — Western Wireless, Reynolds' **Telecom** provider, and Verizon Wireless — felt it would be profitable to build a cell tower in Parker, a farming town with 1,031 people.

So Reynolds, a building contractor who's on the phone constantly with subcontractors and customers, saw his workday routinely end 20 minutes or so earlier than he wished because his cellphone would go dead on the drive home.

Salvation came a year ago. That's when Western Wireless, bowing to pleas from community leaders and state regulators, completed a 265-foot, \$245,000 tower just west of Parker.

But now, the money that helped pay for the tower — from the federal universal service fund — is under siege from critics who say it amounts to an unwarranted windfall for wireless companies.

The \$3.5 billion fund, financed by a 10.7% fee on every long-distance bill, goes mostly to rural phone incumbents to keep basic home service affordable. That's because it's costly for companies to string wires to rural areas with few customers.

But to spur competition, the 1996 Telecommunications Act also lets the incumbents' rivals — most of which are wireless carriers — receive some of the money if state or federal officials find it's in the public interest. The sum received by wireless providers soared to about \$230 million last year, from \$2.6 million in 2000, the Federal Communications Commission says.

Rural phone companies complain that those payments are unnecessary and a big reason the fund is under strain. The FCC is listening. It's set to rule next month on a proposal that could sharply cut universal-service funding for wireless providers.

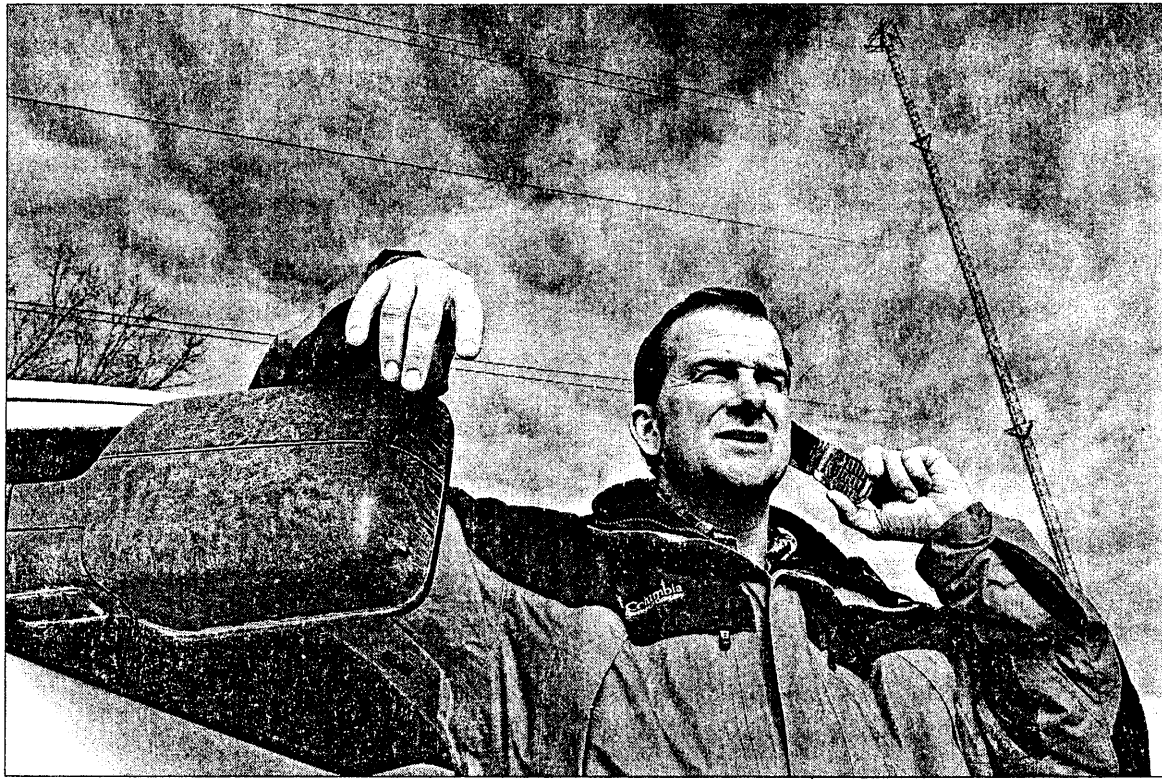
"If it's uneconomical to provide (wire-line) service to an area, we shouldn't be (enticing) a competitor to (serve) the same area," says Legg Mason analyst Chris King.

Wireless carriers counter that the subsidies help serve the small towns that have few or no cellphone providers — and some back-country pockets that lack even basic wire-line service. The wireless companies note that they receive just 7% of the funding.

"We're talking about a bunch of carriers that just don't like competition," says CEO Jack Rooney of U.S. Cellular, one of the rural wireless carriers that get funding.

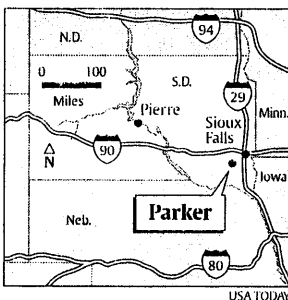
Reynolds, the building contractor, appreciates his expanded cellphone coverage for his commute home. "I get 2½ hours a week of increased productivity," says Reynolds, 37. That means more time with his three kids, because he doesn't have to make business calls at home.

Cellphone service has been creeping its way into rural America. The portion of the U.S. population with a choice of three or more wireless providers has grown to 96.8%,



By Greg Latza for USA TODAY

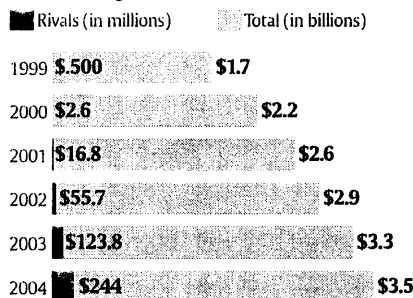
Can you hear me now? Contractor Paul Reynolds uses his cellphone in Parker, S.D. Before December 2003, his phone was useless there. Then Western Wireless built a tower, background, near Parker.



USA TODAY

Where telecom funds go

Local phone companies' rivals, 95% of which are wireless carriers, get a small but fast-growing portion of universal service funding.



Sources: Federal Communications Commission, Universal Service Administrative Company

By Alejandro Gonzalez, USA TODAY

from 87.8% four years ago, FCC figures show. Mankato, Minn., for example, was served by just three carriers two years ago. Now, there are five. And outposts such as Parker, which had none, are abuzz with cellular service for the first time.

Partly fueling the growth are national carriers such as Verizon and Sprint that have expanded their networks to fill some coverage gaps, especially near major highways. In addition, a band of smaller companies such as Western, Alltel (which just announced a deal to buy Western), U.S. Cellular and Dobson Communications have ventured into even smaller towns.

Western has been most aggressive. As big carriers shunned the tiniest hamlets, Western was enticed by the lack of competition.

"I thought the need was great in rural areas," says Western Wireless CEO John Stanton. "I knew that if you bring the price down you dramatically expand the market."

Yet profits can be elusive. Western has spent \$2 million in four years building towers to serve the Pine Ridge Indian Reservation in South Dakota, where just 10% of residents have land-line service. It has 4,000 customers

but is still losing money. Western, which got \$54 million in universal-service money last year, including about \$1.2 million for Pine Ridge, is the largest wireless recipient.

Rural incumbents complain that wireless carriers use the money to pad their pockets in areas they already serve — not to bring fresh competition to underserved regions.

"They don't build out to every customer," says Tom Wacker of the National Telecommunications Cooperative Association. "They go to the most lucrative portions. They waltz in with a minimal investment and collect a mother lode."

Stanton disagrees. "We are covering areas we would not otherwise cover in places like

Kansas, Nebraska, Utah and Nevada."

Some states, such as Montana, have rigorous standards, requiring carriers to build enough towers to serve an entire area. Western says that's burdensome. It notes that once it gets funding for a community, it must provide service to anyone in town who asks for it. Montana's rule has discouraged Western from using the funds there.

Rural companies also complain about the amount that wireless companies receive. For each customer they sign up, wireless providers get the same funding as the incumbent rural company. That's not fair, Wacker says. He notes that wireless companies generally have much lower costs because they don't have to string wires to each home.

Federal and state officials are eyeing ways to rein in the fund. A panel of regulators recommended that the FCC limit funding to the company that provides a customer's main phone line. That would kill much of the support for wireless carriers. But Congress, led by rural senators, last year passed legislation barring the FCC from making such a change.

Another panel recommendation — to pressure states to adopt stricter tower construction rules to improve coverage — could be approved by the FCC next month.

The panel is also weighing a proposal to base the payments to wireless carriers on their actual costs, rather than on the rural land-line company's costs.

Some states defend the current funding to rural wireless companies as a boon for public safety and economic development. "When people come to Main Street, flip open their cellphone and it doesn't work, they question whether this is where they want to move a corporation," says Bob Sahr, a member of the South Dakota Public Utilities Commission.